EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

2. Authorization for this examiner's amendment was given in a telephone interview with Mr. Steve Ford on Jan. 8, 2009. The follow-up discussions were taken place on Jan. 12 and 13, 2009.

3. Claims 1, 10, 15, 20 and 25 have been amended as follows:

1. (Currently amended) A call controller, comprising:

a processor configured to monitor call signaling for a media call between a first endpoint and a second endpoint and dynamically determine whether or not to selectively insert a media proxy into a call path associated with the call signaling according to a network proximity between the first and second endpoints; ~~and~~

wherein the network proximity corresponds with a network topology relationship of the first endpoint and the second endpoint; and

wherein the processor is further configured to:

identify when the first endpoint does not adequately support a quality of service reservation protocol;

cause the media proxy to conduct a quality of service reservation for the call path on behalf of the first endpoint when the first endpoint is identified as not supporting the quality of service reservation protocol and the first and second endpoints are outside of a given network proximity range, and

cause the call path to be established without the media proxy and without conducting a quality of service reservation when the first and second endpoints are within the given network proximity range.

10. (Currently amended) A network device, comprising:

a call controller monitoring a first endpoint sending call signaling, wherein the call controller selectively causes quality of service reservation for a media path between the first endpoint and a second endpoint on behalf of at least one of the first endpoint and second endpoint according to a network proximity of the first endpoint with the second endpoint ~~; and wherein~~ when the network proximity between the first and second endpoints indicate that proper quality of service reservation cannot be achieved and selectively not causing quality of service reservation for the media path on behalf of at least one of the first and second endpoints when the network proximity between the first and second endpoints indicate that proper quality of service reservation can be achieved, the network proximity ~~corresponds~~ corresponding to a network topology relationship of the first endpoint and the second endpoint; and

wherein the call control monitor is further configured to determine the network proximity by applying Internet Protocol (IP) addresses for the first and second endpoints to a subnet mask and not use quality of service reservation for the media path when the first and second endpoints have a same subnet address and use quality of service reservation for the media path when the first and second endpoints do not have the same subnet address.

15. (Currently amended) A method for establishing a media stream over a packet switched network, comprising:

dynamically deciding whether to insert a Quality of Service (QoS) intermediary into a media session between two endpoints according to a relative proximity of the two endpoints in the packet switched network;

identifying when at least one of the endpoints does not support a quality of service reservation protocol;

inserting the QoS intermediary into the media session for conducting a quality of service reservation for the media session on behalf of the identified at least one of the endpoints when the at least one of the endpoints is identified as not supporting a quality

of service reservation protocol and the two endpoints are outside of a relative network proximity range, and

allowing the media session to be established without inserting the QoS intermediary into the media session when the first and second endpoints are within the relative network proximity range.

20. (Currently amended) A system for establishing a media stream over a packet switched network, comprising:

means for dynamically deciding whether to insert a Quality of Service (QoS) intermediary into a media session between two endpoints according to a relative proximity of the two endpoints in the packet switched network;

means for identifying when at least one of the two endpoints does not adequately support a quality of service reservation protocol;

means for inserting the QoS intermediary into the media session on behalf of the identified at least one of the two endpoints when the at least one of the endpoints is identified as not supporting a quality of service reservation protocol and the two endpoints are outside of a given network proximity range, and

means for allowing the media session to be established without inserting the QoS intermediary into the media session on behalf of the identified at least one of the two endpoints when the two endpoints are within the given network proximity range.

25. (Currently amended) An electronic storage medium containing software for establishing a media stream over a packet switched network, the electronic storage medium comprising:

dynamically deciding whether to insert a Quality of Service (QoS) intermediary into a media session between two endpoints according to a relative proximity of the two endpoints in the packet switched network;

identifying at least one of the two endpoints that does not support a quality of service reservation protocol

inserting the QoS intermediary into the media session for conducting a quality of service reservation for the media session on behalf of the identified at least one of the two endpoints when the two endpoints are outside of a network proximity range and the at least one of the endpoints is identified as not supporting a quality of service reservation protocol; and

allowing the media session to be established without inserting the QoS intermediary into the media session when the two endpoints are within the network proximity range.

Claims 2-3 and 13 have been cancelled.

CONCLUSION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUNG-HOANG J. NGUYEN whose telephone number is (571)270-1949. The examiner can normally be reached on Monday to Thursday, 8:30AM - 5:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 571 272 7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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